



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

52

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,803	06/23/2000	Edward A. Hubbard	UNTD:011	2640

7590 04/29/2005

WINSTEAD, SECHREST & MINICK P.C.
P.O. BOX 50784
DALLAS, TX 75201

EXAMINER

SHAH, NILESH R

ART UNIT	PAPER NUMBER
----------	--------------

2195

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/602,803

Applicant(s)

HUBBARD, EDWARD A.

Examiner

Nilesh Shah

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 23-30 are presented for examination.

Response to Arguments

2. In view of the appeal brief filed on 1/13/05, PROSECUTION IS HEREBY REOPENED.

New grounds of rejection are set forth below.

3. To avoid abandonment of the application, appellant must exercise one of the following two options:

file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Drawings

4. The informal drawings are not of sufficient quality to permit examination. Accordingly, new drawings are required in reply to this Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR

1.136(a). Failure to timely submit new drawings will result in **ABANDONMENT** of the application.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over London et al (hereinafter London), Popcorn, A Paradigm for Global-Computing, June 1998 in view Suarez (5,790,789).
7. As per claim 23 London teaches a method operating a distributed processing system having a network coupling a multiplicity of Host distributed processing system, a plurality of Client systems, and a Server system (page 26) comprising the steps of Coupling the server system to a network, which is configured to be couple to distributed devices (fig 1, page 9; page 8-12).

London does not specifically teach the use of identifying at least one workload capability for a plurality of the distributed devices.

Suarez teaches receiving a request by the server from one of the plurality of Client systems to use the distributed processing system to process a first workload(col. 6 lines 12-29; col. 30 lines 4-15);

sending to the first Host distributed device an index of one or more data addresses

defining a location of first data required to process the first workload (col. 26 lines 40-67; col. 27 lines 33-36).

accessing the first data from a first data address selected from the one or more data addresses in the index (col. 24 lines 17-23, col. 7 lines 18-29, col. 11 lines 14-21); and

updating the index to include a storage address of storage coupled to the first Host distributed device as a location of the first data (col. 26 lines 40-67; col. 27 lines 33-36).

It would have been obvious to one skilled in the art to combine the teachings of London and Suarez because Suarez method of dynamic resource allocation would improve London's system by making it more efficient because each distributed device would know the workload of each device.

8. As per claim 24, Suarez teaches a method wherein the multiplicity of Host distributed devices are coupled to the network in response to an incentive supplied by the Server system (col. 26 lines 1-32; col. 25 lines 40-66).

9. As per claim 25, Suarez teaches a method wherein the incentive defines an advantage for the multiplicity of Host distributed devices to couple to the network (col. 26 lines 1-32; col. 25 lines 40-66).
10. As per claim 26, Suarez teaches a method wherein the first Host distributed device is selected to process the first workload in response to capability values of a capability vector for the first system stored in a capability database coupled to the server system (col. 3 lines 33-55; col. 4 lines 56-66; col. 26 lines 1-32; col. 25 lines 40-66).
11. As per claim 27, Suarez teaches a method wherein the first Host distributed device is selected to process the first workload in part because a data address for the first data required to process the first workload in the index corresponds to a storage address for accessing storage coupled to the first Host distributed device (col. 26 lines 40-67; col. 27 lines 33-36).
12. Claim 28 is rejected based on the same rejection as claim 1 above further comprising Suarez teaches a database coupled to the Server system for storing capability vectors having capability values defining an ability of each of the multiplicity of Host processing devices has for processing workloads for the distributed processing system (col. 2 lines 5-10; col. 13 lines 40-60; col. 14 lines 5-2).
13. Claim 29 is rejected based on the same rejection as claim 28 above.

14. Claim 30 is rejected based on claim 23 above.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niles Shah whose telephone number is (571)272-3771. The examiner can normally be reached on 9-5. Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100

Art Unit: 2195

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (571)272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nilesh Shah
Examiner
Art Unit 2195

NS
April 14, 2005


MAJID BANANKHAM
PRIMARY EXAMINER